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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,433	11/03/2003	Hsiu-Hsueh Wu	14022 B	5601

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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK, NY 10038

EXAMINER	
NELSON JR, MILTON	

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/700,433	WU, HSIU-HSUEH	
	Examiner	Art Unit	
	Milton Nelson, Jr.	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 11-13* is/are rejected.

7)☒ Claim(s) *9 and 10* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (c) he has abandoned the invention.
>
> (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

> (f) he did not himself invent the subject matter sought to be patented.
>
> (g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilcox (6089669). Note the lower block (16), hollow seat (12), hollow backrest (14), blow molded configuration (see column 4, lines 7-9), hollow seat opening (one of the members 55), reduced neck (one of the members 68 which engages the member 55), the opening defined while molding the seat (note that Wilcox does not indicate that the opening is provided otherwise), fastener (72), aperture (see column 5, line 3), and aperture (70).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox (6089669) in view of Caruso (4073539).

Wilcox shows all claimed features of the instant invention with the exception of the upper block including two armrests mounted on the hollow seat (claim 7); and the hollow seat including two apertures defined therein, and each of the armrests including an insert extending from a lower end into one of the apertures (claim 8). Note the description of features in the rejection under 35 USC 102(b).

Caruso teaches the conventional concepts of providing a seating assembly with an upper block (30) including two armrests (14 and 15) mounted on a seat, wherein the seat includes two apertures (one of 20, and one of 21) defined therein, and each of the armrests including an insert (threaded fastener, as described in column 3, line 15) extending from a lower end into one of the apertures.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Wilcox in view of the teaching of Caruso by adding two armrests to the upper block such that the two armrests are mounted on the seat (claim 7); and configuring the seat as including two apertures define therein, wherein each of the armrests includes an insert extending from a lower end into one of the apertures (claim 8). Adding the armrests conventionally enhances user comfort. Configuring the assembly with the apertures and inserts provides conventional and inexpensive means for securing the armrests to the assembly.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox (6089669) in view of Chen (2002/0011747).

Wilcox shows all claimed features of the instant invention with the exception of the lower block including a base for installment on the ground and a post mounted on the base (claim 11); the post being telescopic (claim 12); and the lower block including a control device connected with the telescopic post for control over the extending and shrinking of the telescopic post (claim 13). Note the description of features in the rejection under 35 USC 102(b).

Chen teaches the conventional concepts of providing a seating assembly with a lower block (16) including a base (wheeled structure of 80, as shown in Figure 4) for installment on the ground, and a post (upright member of 80) mounted on the base, wherein the post is telescopic, and the lower block including a control device (10) connected (by way of 82, 90) with the telescopic post for control over the extending and shrinking of the telescopic post.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Wilcox in view of the teaching of Chen by adding to the lower block a base for installment on the ground, wherein a post is mounted on the base (claim 11); wherein the post is telescopic (claim 12); and wherein the lower block includes a control device connected with the telescopic post for control over the extending and shrinking of the telescopic post (claim 13). Configuring the assembly with the base and post mounted thereon, provides for conventional support of the assembly on a surface. The addition of a telescopic post conventionally enhances the

capacity for different size users to be seated comfortably in the chair. The further addition of the control device conventionally enhances selective adjustment of the chair by the user.

Allowable Subject Matter

Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A molded seating assembly is shown by each of Huse (6536844), Curtis et al (3971587), Talmon et al (4577907), Cone (4521052), Croom (5509720), and Marcus et al (4854638).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Friday 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

mn
April 5, 2004